

Message Text

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ORIGIN ARA-10

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FM SECSTATE WASHDC

TO AMEMBASSY SAN SALVADOR PRIORITY

AMEMBASSY GUATEMALA PRIORITY

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E.O. 11652: N/A

TAGS:CASC, SHUM, PINS, ES

SUBJECT: TREATMENT OF U.S. CITIZEN PRIEST

REF: A) SAN SALVADOR 869; B) SAN SALVADOR 858;
C) SAN SALVADOR 800; D) GUATEMALA 1063

1. AT HIS REQUEST, AMERICAN PRIEST, BERNARD ANTHONY SURVIL, MET WITH ARA AND L OFFICIALS ON FEBRUARY 25. BILL BROWN OF WOLA AND ANOTHER PRIEST, FATHER CHARLES DAVIGNON OF U.S. CATHOLIC CONFERENCE, ACCOMPANIED HIM.

2. FATHER SURVIL RECOUNTED THE CIRCUMSTANCES OF HIS EXPULSION FROM EL SALVADOR AS WELL AS HIS SUBSEQUENT EXPERIENCES IN GUATEMALA. HE WAS INITIALLY PLACED IN LIMITED OFFICIAL USE

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CUSTODY BY UNIDENTIFIED AGENTS WHO TOOK HIM TO THE GUARDIA NACIONAL HEADQUARTERS. THERE HE WAS BLINDFOLDED, CUFFED HANDANDFOOT TO A BED(ALL NIGHT) AND QUESTIONED INTERMITTENTLY AS TO HIS ACTIVITIES AND ASSOCIATIONS IN EL SALVADOR. THE FOLLOWING MORNING HE WAS UNCUFFED AND TRANSPORTED IN CUSTODY OF IMMIGRATION OFFICERS TO OFFICE OF DIRECTOR OF IMMIGRATION. ON THE WAY, BLINDFOLD WAS

REMOVED. CONSULAR OFFICER HANSEN ATTENDED MEETING AT DIRECTOR'S OFFICE. SURVIL WAS CONFRONTED WITH A "DENUNCIO" FILED BY A LOCAL WOMAN. CERTAIN CLAUSES OF THE LEY

EXTRANJERO WERE READ TO HIM. THE IMMIGRATION DIRECTOR THEN READ HIM A DOCUMENT WHICH HE WAS ASKED TO SIGN -- PERHAPS AN ACKNOWLEDGMENT OF THE FACT THAT HE HAD BEEN INFORMED OF THE "DENUNCIO" AND OF CERTAIN CLAUSES OF THE ALIEN LAW WHICH HE MIGHT BE CONSIDERED TO HAVE VIOLATED, ALTHOUGH HE DID NOT SEEM CERTAIN OF ITS NATURE OR EFFECT. HE REFUSED TO SIGN. THE CONOFF OBTAINED HIS RELEASE. FATHER SURVIL, WHO UNDERSTOOD FROM A CONOFF HE CONSIDERED THE MATTER WAS CLOSED, WENT ABOUT HIS NORMAL ROUTINE FOR THE NEXT FEW DAYS. HOWEVER, ON THE EVENING OF FRIDAY THE 18TH, NEAR HIS HOME, THE PRIEST WAS FORCED AT GUNPOINT INTO A VAN AND, HANDS BOUND AND LYING ON THE FLOOR, WAS TRANSPORTED TO THE GUATEMALAN BORDER.

3. DESPITE HIS REQUEST THAT HIS PASSPORT BE PROPERLY STAMPED, THE PRIEST STATES THIS WAS NOT DONE. INSTEAD, HE WAS USHERED ALONG, TAKEN A FEW KILOMETERS FARTHER IN GUATEMALA WHERE AN UNIDENTIFIED OFFICIAL, DRIVER AND GUARD, WERE WAITING IN A MERCEDES BENZ. HIS PASSPORT WAS TAKEN. THEY WERE DRIVEN TO ANOTHER POINT WHERE HE WAS TRANSFERRED TO A POLICE JEEP, ALONG WITH A BELGIAN PRIEST FROM EL SALVADOR AND LATER JAILED. A CONOFF TRIED TO SECURE SURVIL'S RELEASE THAT SATURDAY, TO NO AVAIL. THE AUTHORITIES CHARGED HE WAS AN UNDOCUMENTED ALIEN. SURVIL RECOUNTED THAT THE POLICE HAD THEMSELVES TAKEN HIS PASS- LIMITED OFFICIAL USE

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PORT, BUT TO NO AVAIL.

4. THERE ARE SEVERAL POINTS WHICH SHOULD BE NOTED. FATHER SURVIL SAYS HE IS PRINCIPALLY INTERESTED IN CLARIFYING WHETHER AND WHAT CHARGES ARE BEING LEVIED AGAINST HIM, IN ORDER TO SET THE RECORD STRAIGHT. HE HAS NOT CHARGED PHYSICAL ABUSE BEYOND TWO PERIODS OF ARBITRARY DETENTION, TRANSPORTATION AND ARRESTS AT GUNPOINT AND IN A HUMILIATING AND VERY UNCOMFORTABLE FASHION, HANDCUFFING OVERNIGHT TO A BED AND BLINDFOLDING. HE ADMITS NOT HAVING REQUESTED CONTACT WITH THE EMBASSY.

5. THE FACTS THAT APPEAR TO EMERGE FROM THE FATHER'S STATEMENTS AND REPORTING TO DATE WOULD TEND TO SHOW THAT: A) CONTRARY TO THE OBLIGATIONS OF EL SALVADOR AND GUATEMALA UNDER ARTICLE 36 OF THE VIENNA CONSULAR CONVENTION (TO WHICH BOTH GOVERNMENTS AND THE USG ARE PARTIES), NEITHER GOVERNMENT INFORMED THE FATHER OF HIS RIGHTS (OF CONSULAR COMMUNICATIONS) UNDER ARTICLE 36 (1) (B) WITHOUT

DELAY; B) CONTRARY TO THEIR OBLIGATION TO ALL PERSONS

UNDER THE UNITED NATIONS CHARTER (ARTICLES 55 AND 56) AND

GENERAL INTERNATIONAL LAW (RIGHT TO BE FREE OF ARBITRARY OR DISCRIMINATORY TREATMENT), NEITHER GOVERNMENT AFFORDED THE FATHER THOSE ELEMENTS OF A FAIR HEARING (NOTICE OF CHARGES AND HEARING BEFORE AN INDEPENDENT AND IMPARTIAL BODY) NECESSARY TO A DETERMINATION OF RIGHTS IN A DEPORTATION PROCEEDING. (IN BOTH EL SALVADOR AND GUATEMALA HE POSSESSED A VALID MULTIPLE ENTRY VISA, HE STATES;) C) BOTH GOVERNMENTS APPEAR TO HAVE COOPERATED IN AN ARBITRARY DETENTION WHICH INCLUDED LAYING OF CHARGES (NO DOCUMENTATION UNLAWFUL ENTRY) THAT SEEMS TO HAVE BEEN CONTRIVED AND FALSE. D) NEITHER GOVERNMENT DENIED CONSULAR ACCESS WHEN IT WAS REQUESTED BY THE USG.
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6. FATHER SURVIL IS DISINCLINED AT THIS TIME TO GIVE THE DEPARTMENT A WRITTEN ACCOUNT OF THE EVENTS. HOWEVER, HE INTENDS TO AIR THE MATTER WITH THE MEDIA.

7. EMBASSY SAN SALVADOR IS REQUESTED TO CABLE TEXT OF DOCUMENT SERVIL WAS ASKED TO SIGN IN EL SALVADOR AND EMBASSY GUATEMALA REQUESTED TO DO SAME DOCUMENT SIGNED THERE.

8. THE QUESTIONS ABOVE OUTLINED CONCERN THE INTERNATIONAL PROCEDURAL OBLIGATIONS OF THE TWO GOVERNMENTS. NO DEGREE OF POSSIBLE CULPABILITY UNDER SOME DOMESTIC LAW COULD JUSTIFY DISREGARD OF SUCH GUARANTEES. IN ANY EVENT, THERE IS NOTHING IN THE RECORD HERE TO SUGGEST THAT THERE HAS BEEN VIOLATION OF ANY LAW ITSELF CONSISTENT WITH THE INTERNATIONALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF ALL PERSONS.

9. EMBASSY SHOULD SUPPLY ANY FACTS OR COMMENT TO ASSIST DEPARTMENT REVISING AND ASSESSING FOREGOING.

VANCE

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